

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

FRANCIS WOUKOP YOMI,

Plaintiff(s),

v.

CARLOS DEL TORO, et al.,

Defendant(s).

CASE NO. C23-5199-KKE

ORDER DENYING MOTION FOR  
RECONSIDERATION

This matter comes before the Court on Plaintiff's motion for reconsideration. Dkt. No. 27. Plaintiff contends that the Court erred in denying his motion for default because Defendant's motion to dismiss was untimely filed. *Id.* But, as explained in the Court's order (Dkt. No. 26 at 2-3), the clock has not yet started to run on Defendant's time to respond to Plaintiff's complaint because service has not yet been perfected. Federal Rule of Civil Procedure 12(a)(2) provides that a United States officer or employee sued in its official capacity (such as Defendant here) must respond to a complaint within 60 days of service on the United States attorney, and Plaintiff's motion acknowledges that the United States attorney has not yet been served. *See* Dkt. No. 27 at 1-4. Plaintiff emphasizes that the summons form does not explicitly link the time to respond to the service of the United States attorney (Dkt. No. 27), but the form does indicate that Rule 12 governs Defendant's response obligation. *See* Dkt. No. 12. Plaintiff has not shown that the Court

1 erred in finding that because the United States attorney has not yet been served, Defendant's time  
2 to respond has not yet started running.

3 Plaintiff has failed to demonstrate manifest error in the Court's prior order, and his motion  
4 for reconsideration (Dkt. No. 27) is therefore DENIED. *See* Local Civil Rule 7(h) ("The court will  
5 ordinarily deny [motions for reconsideration] in the absence of a showing of manifest error in the  
6 prior ruling or a showing of new facts or legal authority which could not have been brought to its  
7 attention earlier with reasonable diligence."). In light of Plaintiff's request for a stay of the case  
8 deadlines while this motion is pending (Dkt. No. 27 at 4), Plaintiff's deadline to return the service  
9 forms and service copies of the complaint (as previously instructed (Dkt. No. 26 at 3)) is extended  
10 from November 22, 2023, to November 27, 2023.

11 Dated this 13th day of November, 2023.

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14 Kymberly K. Evanson  
15 United States District Judge  
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